

By: Representative Maples

To: Transportation

HOUSE BILL NO. 33

1 AN ACT TO AMEND SECTIONS 65-1-59 AND 65-1-75, MISSISSIPPI
 2 CODE OF 1972, TO PROVIDE THAT THOSE HIGHWAYS OR PORTIONS OF
 3 HIGHWAYS WITHIN A COUNTY OR MUNICIPALITY THAT EITHER BEFORE OR
 4 AFTER JULY 1, 2002, WERE OR ARE ON THE STATE HIGHWAY SYSTEM AND
 5 UNDER THE JURISDICTION OF THE MISSISSIPPI DEPARTMENT OF
 6 TRANSPORTATION FOR CONSTRUCTION AND MAINTENANCE BUT WHICH HAVE
 7 BEEN OR ARE RELOCATED, REPLACED OR BYPASSED IN CONSTRUCTION OF THE
 8 FOUR-LANE HIGHWAY PROGRAM SHALL BE ON THE DESIGNATED STATE HIGHWAY
 9 SYSTEM AND SHALL BE UNDER THE JURISDICTION OF THE MISSISSIPPI
 10 TRANSPORTATION COMMISSION FOR CONSTRUCTION AND MAINTENANCE; AND
 11 FOR RELATED PURPOSES.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

13 **SECTION 1.** Section 65-1-59, Mississippi Code of 1972, is
 14 amended as follows:

15 65-1-59. (1) It shall be the duty of the Mississippi
 16 Transportation Commission to have the Mississippi Transportation
 17 Department carry out all contracts and agreements, including
 18 federal-aid projects and agreements under the County Highway Aid
 19 Law of 1946, being Sections 65-11-1 through 65-11-37, heretofore
 20 made or entered into with any county, subject, however, to
 21 applicable rules and regulations of the Federal Highway
 22 Administration. It shall be the duty of the Transportation
 23 Commission to continue to have the Mississippi Transportation
 24 Department maintain all state highways now under maintenance or
 25 hereafter taken over for maintenance, the purpose of this
 26 provision being to preserve the status quo of all state highways
 27 insofar as such highways have been taken over and control and
 28 jurisdiction has been assumed by the Mississippi Transportation
 29 Commission and Mississippi Transportation Department; however,
 30 except as otherwise provided in this section, if any highway or
 31 link of highway is removed from the state highway system by



32 legislative act or by relocation or reconstruction, it shall no
33 longer be maintained by or be under the jurisdiction of the
34 Mississippi Transportation Commission or Mississippi
35 Transportation Department, but shall be returned to the
36 jurisdiction of the board of supervisors of the county or
37 governing authorities of the municipality through which such road
38 runs. Except as to segments of highways shorter than three (3)
39 miles which have been or which are hereafter replaced through
40 curve straightening or minor realignment, the Transportation
41 Commission shall retain and have the Mississippi Transportation
42 Department maintain as state highways all portions of U.S.
43 highways that either before or after July 1, 1989, have been or
44 are replaced and constructed as a part of the interstate highway
45 system, or four-lane primary system, or which are replaced and
46 constructed or are designated to be replaced and constructed as
47 part of the highway system under Section 65-3-97, including
48 portions of all such highways so replaced, or which under Section
49 65-3-97 are designated to be replaced, by municipal bypasses; and
50 such highways and portions thereof shall be continued to be
51 maintained as a part of the Mississippi state highway system until
52 removed from such system by legislative act. All such highways
53 and portions thereof which, by virtue of the provisions of this
54 section, are returned on or after July 1, 1989, to the
55 jurisdiction of the Mississippi Transportation Commission shall be
56 maintained by the Mississippi Transportation Department only to
57 the traffic capacities existing at the time that they are returned
58 and any subsequent traffic capacity improvements or other
59 improvements desired by the county or municipality within which
60 such highway or portion thereof is located shall be performed in
61 accordance with highway standards approved by the Transportation
62 Commission and the expenses for making such improvements shall be
63 paid by the county or municipality; however, all highways and
64 portions thereof so improved by the county or municipality shall



65 thereafter be maintained by the Mississippi Transportation
66 Department. Before any highway or portion thereof is returned to
67 the Transportation Commission under this section, the county or
68 municipality having jurisdiction thereof shall remove or cause to
69 be removed by July 1, 1991, all right-of-way encroachments along
70 the entire length of the highway or portion thereof which are not
71 permitted by Transportation Commission and Transportation
72 Department policies and rules and regulations adopted pursuant to
73 state and federal law. Any such encroachments may be allowed to
74 remain only by permits issued by the Mississippi Transportation
75 Department in the manner and subject to the same conditions for
76 the issuance of permits for similar encroachments on other
77 highways on the state highway system. If traffic counts indicate
78 that any highway or portions thereof placed under the jurisdiction
79 of the Transportation Commission under the provisions of this
80 section no longer form a substantial part of the state highway
81 system, the Transportation Commission may request the Legislature
82 to remove such highways or portions thereof from the state highway
83 system and return said roads for maintenance to the county or
84 municipality in which they are located, as provided in subsection
85 (2) of this section. The highways which the Transportation
86 Department is required to continue to maintain by virtue of the
87 provisions of this section shall be in addition to the total
88 mileage limitation of eight thousand six hundred (8,600) miles
89 provided in Section 65-3-3.

90 (2) Notwithstanding any other provisions of this section to
91 the contrary, the following highways or portions of highways shall
92 be on the designated state highway system and shall be under the
93 jurisdiction of the Mississippi Transportation Commission for
94 construction and maintenance:

95 (a) Those highways or portions of highways located
96 within counties or municipalities that before July 1, 2003, were
97 on the designated state highway system and under the jurisdiction



98 of the Mississippi Transportation Commission for construction and
99 maintenance but which were relocated, replaced or bypassed by the
100 Mississippi Department of Transportation in construction of the
101 four-lane highway program under Section 65-3-97; and

102 (b) Those highways or portions of highways located
103 within counties or municipalities that from and after July 1,
104 2003, are on the designated state highway system and under the
105 jurisdiction of the Mississippi Transportation Commission for
106 construction and maintenance but which are relocated, replaced or
107 bypassed by the Mississippi Department of Transportation in
108 construction of the four-lane highway program under Section
109 65-3-97.

110 (3) The Mississippi Transportation Commission shall, no
111 later than October 1, 1981, and October 1 each year thereafter,
112 furnish the Transportation Committee of the House of
113 Representatives and the Highways and Transportation Committee of
114 the Senate a recommendation for deletion of those highways or
115 sections of highways which should be removed from the system.

116 **SECTION 2.** Section 65-1-75, Mississippi Code of 1972, is
117 amended as follows:

118 65-1-75. (1) The Mississippi Transportation Commission is
119 authorized and empowered to have the Transportation Department
120 locate, construct, reconstruct and maintain any designated state
121 highway under its jurisdiction to, through, across or around any
122 municipality in the state, regardless of the width of the street
123 between curbs; and in so locating it is fully empowered to follow
124 the route of the existing street or to depart therefrom, as in its
125 discretion it deems advisable, and to obtain and pay for the
126 necessary rights-of-way, as provided in Section 65-1-47. The
127 municipality in which such construction is to be undertaken is
128 likewise authorized to acquire rights-of-way on any such streets
129 or on any newly located routes, either by purchase, gift or
130 condemnation. Such rights-of-way may be acquired by either the



131 municipality or the Transportation Department, subject to the
132 approval of the commission, and the cost thereof may be borne by
133 either or both as may be mutually agreed upon. In any event such
134 municipality may be required to save the commission and department
135 harmless from any claims for damages arising from the construction
136 of the highway through such municipality, including claims for
137 rights-of-way, change of grade line, interference with public
138 structures, and any and all damages so arising. Municipalities
139 may secure additional improvements by payment of the additional
140 cost of same. The commission may require such municipality to
141 cause to be laid all water, sewer, gas or other pipelines or
142 conduits, together with all necessary house or lot connections or
143 services, to the curb line of such road or street to be
144 constructed, and the commission is authorized to refuse to have
145 the department lay such pipelines or conduits beneath such roads
146 or streets until the municipality has laid same or entered into an
147 agreement to reimburse the commission or department for the
148 expense thereby incurred.

149 (2) All construction of state highways in or through
150 municipalities, where done at the cost and expense of the state,
151 whether heretofore or hereafter, shall be maintained in the same
152 manner and to the same extent as is construction on state highways
153 outside the limits of municipalities to the end that investment of
154 the state in such highway so constructed may be preserved and
155 maintained; and all reasonable rules and regulations with
156 reference to the preservation and maintenance of such highways
157 constructed at state expense, whether within or without municipal
158 limits, may be promulgated by the commission, except that it shall
159 have no power to promulgate police regulations contrary to
160 existing law. On any municipal streets or parts or sections
161 thereof taken over for regular maintenance and maintained by the
162 department as a part of the state highway system, the municipality
163 shall not be liable for negligence occasioned by the maintenance



164 or repair of such streets thus apportioned to and of such width as
165 is maintained by the department. The municipality shall have full
166 control and responsibility beyond the curb lines of any designated
167 highway or street, whether heretofore or hereafter so designated,
168 (except the interstate system) located within its present or
169 future expanded municipal corporate limits, regardless of the
170 ownership of the right-of-way, including, but not limited to, the
171 construction and maintenance of sidewalks, grass mowing and
172 drainage systems; however, the department may utilize the
173 right-of-way purchased by the commission without any additional
174 cost or permission.

175 The municipality shall not allow any encroachments, signs or
176 billboards to be erected or to remain on state-owned rights-of-way
177 on any designated highway within its corporate limits without the
178 consent of the commission. The municipality, at its own expense,
179 shall provide street illumination and shall clean all streets,
180 including storm sewer inlets and catch basins. The commission may
181 enter into an agreement with the municipality or with a private
182 entity to sweep and clean the designated highways within or
183 without the corporate limits. The commission may, at state
184 expense, provide illumination and may clean all interstate
185 highways within the corporate limits of any municipality. The
186 right of the municipality to grant franchises over, beneath and
187 upon such streets is specifically retained, but the municipality
188 shall require every grantee of a franchise to restore, repair and
189 replace to its original condition any portion of any such street
190 damaged or injured by it; however, permission to open the surface
191 of any municipal street maintained by the department must be
192 obtained from both the commission and the municipality concerned
193 before any such opening is made. Each municipality shall retain
194 full police power over its streets, particularly as to regulating
195 and enforcing traffic and parking restrictions on such streets,
196 but any traffic control and parking regulations repugnant to state



197 law shall be null and void. The commission shall have the
198 department erect, control and maintain all highway route markers
199 and directional signs on such streets at state expense. The
200 commission, at state expense, shall have the department install,
201 operate, maintain, control, and have full jurisdiction over, all
202 traffic control devices, including, but not limited to, signals,
203 signs, striping and lane markings on state highway streets in
204 municipalities having a population of twenty thousand (20,000) or
205 less according to the current United States census; but
206 municipalities over twenty thousand (20,000) population according
207 to such census shall install, operate, maintain and control such
208 devices at their own expense, subject to approval of the executive
209 director regarding operations, method of installation and type
210 only. Municipalities having a population of five thousand (5,000)
211 or more but less than twenty thousand (20,000) according to the
212 most recent federal census shall only be responsible for
213 electrical operating costs; and all other costs for the
214 installation, operation and maintenance of traffic control
215 devices, including the changing of signal bulbs in traffic signal
216 lights, shall be the responsibility of the Transportation
217 Department. The commission may purchase at state expense and
218 install traffic control devices in municipalities over twenty
219 thousand (20,000) population and donate them to the municipalities
220 for operation and maintenance whenever it appears to the
221 commission that, in the interest of safety or convenience of the
222 motoring public, any of the devices should be upgraded, replaced
223 or removed. Any revenue from parking meters on any such streets
224 shall be controlled by and belong to the municipality.

225 (3) The maintenance of all streets within the limits of any
226 municipality in this state, regardless of size, which are
227 presently being regularly maintained, in whole or in part, by the
228 department at state expense as a part or parts of any designated
229 state highway shall be continued. Whenever any state highway runs



230 into or through the corporate limits of any municipality, the
231 municipal street or the street utilized and marked as a part of
232 any such state highway may be a part of the state highway system
233 and may be maintained by the department; however, such route
234 through any municipality shall be selected by the commission by
235 orders spread on its minutes describing all such routes, and such
236 route or routes may be changed, relocated or abandoned by the
237 commission from time to time, all under the provisions, terms and
238 conditions herein provided, but the commission shall have the
239 department maintain only one (1) route of any highway through a
240 municipality. Upon relocation of such state highway or
241 abandonment thereof, the municipal street formerly used as a state
242 highway shall thereby return to the jurisdiction of, and
243 maintenance by, the municipality.

244 (4) Notwithstanding any other provisions of this section to
245 the contrary, the following highways or portions of highways shall
246 be on the designated state highway system and shall be under the
247 jurisdiction of the Mississippi Transportation Commission for
248 construction and maintenance:

249 (a) Those highways or portions of highways located
250 within municipalities that before July 1, 2002, were on the
251 designated state highway system and under the jurisdiction of the
252 Mississippi Transportation Commission for construction and
253 maintenance but which were relocated, replaced or bypassed by the
254 Mississippi Department of Transportation in construction of the
255 four-lane highway program under Section 65-3-97; and

256 (b) Those highways or portions of highways located
257 within municipalities that from and after July 1, 2002, are on the
258 designated state highway system and under the jurisdiction of the
259 Mississippi Transportation Commission for construction and
260 maintenance but which are relocated, replaced or bypassed by the
261 Mississippi Department of Transportation in construction of the
262 four-lane highway program under Section 65-3-97.



263 **SECTION 3.** This act shall take effect and be in force from
264 and after July 1, 2003.

